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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,336	03/09/2000	Carlos F. Vonderwalde	24079-1080	3266

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EXAMINER

HO, UYEN T

ART UNIT PAPER NUMBER

3731

DATE MAILED: 08/26/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/522,336

Applicant(s)

FREIDBERG ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-22 and 48-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 17, 22 and 48-51 is/are rejected.
- 7) ☒ Claim(s) 16-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 12/11/2002 has been considered and placed in the application file.

Response to Amendment

2. The amendment filed 6/2/2003 has been considered. However, the amendment does not place the application in condition for allowance. The amended claims are rejected as follow.

Claim Objections

3. Claim 16-22, 48-51 are objected to because of the following informalities: Claim 16, line 5, "a penetrating element" should be "at least one penetrating element" since two penetrating elements is claimed in claim 20; line 8 "a penetrating element" should be "the at least one penetrating element"; lines 8 and 11, "the cover connector" should be "the cover connecting member." Appropriate correction is required.
4. Claim 17 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation "the cover disposed cover the tubular stent body has an outer surface, and an inner surface adjacent a surface of the tubular stent body" is claimed in claim 16 (lines 6-12).

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5. Claim 20 is objected to because of the following informalities: Line 2, "cover connector" should be "cover connecting member" and "penetrtrion" should be "penetration". Appropriate correction is required.

6. Claim 49 is objected to because of the following informalities: Line 2, "stent cover is secured to the body by" should be "stent cover is further secured to the body by". Appropriate correction is required.

7. Claim 51 is objected to because of the following informalities: Line 1, "53" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 20, 49-51 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is insufficient antecedent basis for these limitations in the claims:

- Claim 20 recites the limitation "the first edge" in line 3 and "the second edge" in line 5.
- Claim 49 recites the limitation "the second ring section" and "the second end portion" in lines 2-3.
- Claims 50 and 51 recite the limitation "the first ring section" in line 2 of claim 50 and "the second ring section" in line 2 of claim 51.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 16, 17, 22, 48-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinheiro (5,851,228).

In regard to claims 16 and 17, Pinheiro discloses a stent assembly including a stent body having plurality of ring sections (20), at least one connecting support member (40), at least one cover connecting member (38) having a penetrating element (39), a stent cover (90) being secured to the stent body by the at least one cover connecting member (col. 5, lines 4-12) wherein the penetrating elements (39) being positioned adjacent the outer surface of the stent cover (inherent).

In regard to claim 22, wherein the cover is a graft which is inherently made from non-thrombogenic material.

In regard to claim 48, wherein the ring sections (20) have undulations and the connecting members extending between the ring sections (fig. 1).

In regard to claim 49, wherein the stent cover is further secured to the stent body by undulations of the ring sections (fig. 1).

In regard to claims 50 and 51, wherein a plurality of ring connectors extend between ring sections (fig. 1)

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Allowable Subject Matter

12. Claims 18, 19 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the objection. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest in combination with other limitations of claim 18 or 19, a stent cover on a stent body forms a cylinder with a first longitudinally oriented edge abutting or overlapping a second longitudinally oriented edge and of claim 21, a stent cover extends from the first end of the stent to the second end of the stent.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is (703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

(Jackie) Tan-Uyen T. Ho
Patent Examiner
Art Unit 3731
August 20, 2003



MICHAEL J. MILANO
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